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ness of such a strike. See Cook, *Privileges of Labor Unions in the Struggle for Life* (1918) 27 YALE LAW JOURNAL, 779; NOTES (1918) 31 HARV. L. REV. 482, 648. In England a threatened strike over the employment of a man belonging to another union was held to be a trade dispute within the meaning of Trade Dispute Act of 1906 (6 Edw. VII c. 47). *White v. Riley and Wood* (1920, C. A.) 36 T. L. R. 849. It is suggested that the growing tendency is to recognize the closed shop as a legitimate object of trade dispute and therefore that such statutes as that in the instant case should apply to a closed shop strike. See COMMENTS (1920) 29 YALE LAW JOURNAL, 790, 791.

TRUSTS—CHARITABLE USE—PRIVATE BURIAL GROUND.—The plaintiff brought a bill in equity to declare void, as violating the rule against perpetuities, a bequest of shares of stock in trust for the upkeep of a family burial ground. *Held,* that the trust was void as a perpetuity, as it was not for a charitable use. *Shippee v. Industrial Trust Co.* (1920, R. I.) 110 Atl. 410.

In the absence of statute, a trust for the upkeep of a family or individual tomb is usually held invalid, if it is to continue longer than the period of perpetuities. *Bird v. Lee* [1901] 1 Ch. 715; *McCartney v. Jacobs* (1919) 288 Ill. 568, 123 N. E. 557; *Van Syckel v. Johnson* (1912) 80 N. J. Eq. 117, 70 Atl. 657. Some few courts have held, even at common law, that such a trust was valid. See *Nauman v. Weidman* (1897) 182 Pa. 263, 265, 37 Atl. 863; *Swasey v. American Bible Society* (1869) 57 Me. 523; overruled by *Piper v. Moulton* (1881) 72 Me. 155. But, if the trust is for the upkeep of a public cemetery, or one attached to a church, then it is for a charitable use, and is valid. *Attorney General v. Lucas* [1905] 1 Ch. 68; *Chapman v. Newell* (1910) 146 Iowa, 415, 125 N. W. 324; *contra, Van Syckel v. Johnson, supra.* A trust to erect and maintain a monument to a public character has been held valid. *Gilmer v. Gilmer* (1868) 42 Ala. 9. Local statutes in some states have rendered trusts similar to that in the instant case enforceable. See *Morse v. Natick* (1900) 176 Mass. 510, 57 N. E. 996; *Hewitt v. Wheeler School & Library* (1909) 82 Conn. 188, 72 Atl. 935; *Driscoll v. Hewlett* (1909) 132 App. Div. 125, 116 N. Y. Supp. 466. It is submitted that further statutory enactment validating such trusts is desirable. No depth of misfortune or poverty can deprive one of the members of civilized society of the privilege of having a grave, and a rule of law which would deny a generous testator the privilege of establishing a trust for such uses, and yet uphold a trust to pave the street, build a bridge, etc., would lack the elements of both reason and consistency. See *Chapman v. Newell* (1910) 146 Iowa, 415, 421, 125 N. W. 324, 327.

TRUSTS—SAVINGS BANK DEPOSITS WITHOUT CESTUI'S KNOWLEDGE—DEATH OF SETTLOR.—The defendant was administrator of the intestate estate of A. A had made several deposits of her own money in various savings banks in the form "A, trustee for B," in favor of the several petitioners, who received no notice of the existence of such deposits until after A's death. The deposits were increased at various times and in one case, withdrawals were made of some of the accrued interest. *Held,* that a valid trust was created in favor of B upon making such deposits. *Cazallis v. Ingraham* (1920, Me.) 110 Atl. 359.

The Massachusetts court would have arrived at a contrary decision, since it arbitrarily requires notice to the cestui to establish the trust. *Cleveland v. Hampden Savings Bank* (1902) 182 Mass. 110, 65 N. E. 27; *Clark v. Clark* (1871) 108 Mass. 522. Other courts would not have found the necessary intent to create an immediate, irrevocable right in the cestui at the time of making the deposit, on the facts of this case. *Nicklas v. Parker* (1907) 71 N. J. Eq. 777, 61 Atl. 267; *Marcy v. Amazeen* (1881) 61 N. H. 131. Under the doctrine of "tentative trusts," the New York court by a different process of reasoning would have arrived at the same conclusion as that in the principal case. *Matter of Totten* (1904) 179 N. Y. 112, 71 N. E. 748; *cf. Walso v. Latterner* (1918)

140 Minn. 455, 168 N. W. 353. Although it is a clear departure from orthodox theory, the doctrine of the Totten case possesses the virtue of most closely approximating the true intent of the depositor. It has been suggested that this desirable result might be better attained by legislation. See Larremore, *Judicial Legislation in New York* (1905) 14 YALE LAW JOURNAL, 315. But the courts would then be so restricted to close interpretation as to make the legislation abortive. The doctrine further affords a practical method for poor persons to transmit property without a will. Of course, it is here in conflict with the Statute of Wills. See *Nicklas v. Parker* (1907) 71 N. J. Eq. 777, 61 Atl. 267. Furthermore there is danger of its being applied to analogous cases. See (1905) 19 HARV. L. REV. 207. The effect on inheritance taxation should also be considered. See (1919) 29 YALE LAW JOURNAL, 465. Evidently Maine prefers to be less practical and to remain orthodox.

WILLS—EXECUTORS AND ADMINISTRATORS—STATUTE OF NON-CLAIM—NO WAIVER BY FRAUDULENT CONDUCT OF ADMINISTRATOR.—The plaintiff, relying on the assurances of the administrator of a decedent's estate that the presentation to him of an itemized claim would be a compliance with the statute, failed to file her claim with the probate court according to law. Proceedings were instituted to review an order refusing to extend the time. *Held,* that the statute of non-claim could not be waived by any conduct of the administrator, however fraudulent. *State ex rel. Scherber v. Probate Court of Hennepin County, et al.* (1920, Minn.) 177 N. W. 354.

The decisions in the United States are almost uniform in holding that these statutes of non-claim, that are so like statutes of limitations, are imperative and mandatory and cannot be waived or tolled by the personal representatives under any circumstances. See 2 Schouler, *Wills, Executors, and Administrators* (5th ed. 1915) sec. 1390; Wood, *Limitation of Actions* (4th ed. 1916) sec. 188; L. R. A. 1915 B, 1042, note; *Security Trust Co. v. Black River National Bank* (1902) 187 U. S. 211, 23 Sup. Ct. 52; *Abbott v. Johnson* (1917) 130 Ark. 1, 195 S. W. 676. The same has been held as to the filing of claims for classification. *Spaulding v. Suss* (1877) 4 Mo. App. 541. The above cases differ from the instant case in lacking the element of fraud, but there are dicta to the effect that not even fraud could alter the iron-clad rule. See *Nagle v. Ball* (1893) 71 Miss. 330, 335, 13 So. 929, 930; *Vanderpool v. Vanderpool* (1914) 48 Mont. 448, 454, 138 Pac. 772, 774. In the cases under consideration, however, there is no such fraud as should work an estoppel in any event, the misrepresentation being one of law and the means of knowledge being equally accessible to the creditor and to the administrator. See Burdick, *Torts* (3d ed. 1913) sec. 449; Smith, *Frauds* (1907) secs. 14, 247. The result is quite inconsistent with that in an overwhelming majority of jurisdictions, allowing the personal representative to stop the running of the general statute, and with a decided authority to the effect that he may also waive it after it has run. See L. R. A. 1915 B, 1016, note. The distinction attempted by many courts—one of doubtful validity—is that the general statute is a bar to the remedy and the special, to the right. See *Branch Bank at Decatur v. Hawkins* (1848) 12 Ala. 755, 759; *Rhodes v. Cannon* (1914) 112 Ark. 6, 15, 164 S. W. 752, 754. But the statutes in some states allow the owners of claims so barred to reach after-discovered assets, and this result would suggest that the true explanation lies in the policy back of the statute of non-claim, namely, the provision of a speedy and effective mode of distribution of the property of decedents, fair to all concerned. See *Waughof v. Bartlett* (1896) 165 Ill. 124, 128, 46 N. E. 197, 198; *Vanderpool v. Vanderpool* (1914) 48 Mont. 448, 454, 138 Pac. 772, 774. The instant case would seem to be quite sound in requiring the creditor to safeguard his own interests by inquiring as to the law from some authoritative source.